

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JUSTIN LEE NABER,

Plaintiff,

v.

No. 15-cv-0129 KG/SMV

**BERNALILLO COUNTY METROPOLITAN
DETENTION CENTER, FNU GREER,
VIRGINIA CHAVEZ, FNU GRANT,
FNU HOGAN, and CHAPLAIN DEPARTMENT,¹**

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

THIS MATTER is before the Court on the Magistrate Judge's Proposed Findings and Recommended Disposition [Doc. 26], issued on October 27, 2015. On reference by the undersigned, [Doc. 14], the Honorable Stephan M. Vidmar, United States Magistrate Judge, found that Plaintiff's Complaint [Doc. 1] failed to state a claim under to 42 U.S.C. § 1983 and, thus, should be dismissed. [Doc. 26] at 2–3. Judge Vidmar found that Plaintiff had not alleged that his own rights had been violated but, instead, that the rights of others had been violated. *Id.* The Court agrees that Plaintiff does not have standing to sue on behalf of other inmates. *See Reynoldson v. Shillinger*, 907 F.2d 124, 125 (10th Cir. 1990) (“[T]o the extent a complaint concerns ‘inmates’ rather than the plaintiff himself, it is dismissible for failure to allege the plaintiff's standing to proceed.”); *Sherratt v. Utah Dep't of Corr.*, 545 F. App'x 744, 747 (10th

¹Defendants Bernalillo County Metropolitan Detention Center (“BCMDC”) and Chaplain Department were dismissed from the case on August 5, 2015. [Doc. 18] at 3.

Cir. 2013) (“[T]he district court properly dismissed [Plaintiff]’s claims alleged on behalf of other prisoners or the general prison population because [Plaintiff] lacked standing to bring them.”). However, in the interests of justice, Plaintiff should be permitted to file an amended complaint that addresses the deficiency. *See Reynoldson*, 807 F.3d at 126 (“[I]f it is all possible that the party against whom the dismissal is directed can correct the defect in the pleading or state a claim for relief, the court should dismiss with leave to amend.”).

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiff be given **30 days** to AMEND his complaint if he can state a claim on which relief may be granted. If he fails to do so within the time allowed, the complaint may be DISMISSED without prejudice.

IT IS SO ORDERED.


UNITED STATES DISTRICT JUDGE